

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

FIRST MERCURY INSURANCE COMPANY,  
acting through its agent, RIVERSTONE CLAIMS  
MANAGEMENT, LLC,

Plaintiff,

- against -

D'AMATO & LYNCH, LLP, LUKE LYNCH JR.,  
ESQ., ARTURO BOUNTIN, ESQ., MICHAEL  
HAIG, DAVID BOYAR, ROBERT LANG,  
John Does 1-20, and Jane Does 1-10,

Defendants.

Index No.: 159185/2019

**AFFIDAVIT OF**  
**LUKE D. LYNCH, JR.**

Motion Seq. No. 001

Motion Seq. No. 006

STATE OF NEW YORK     )  
  ) ss.:  
COUNTY OF NEW YORK    )

**LUKE D. LYNCH, JR.**, being duly sworn, deposes and says:

1. I am one of the Defendants in this action. Defendant D'Amato & Lynch, LLP, formerly known as D'Amato & Lynch ("D&L" or the "Firm"), is a law firm located in Manhattan which was founded in 1969. D&L has been a registered New York limited liability partnership since 2007, and historically its business has been primarily devoted to the practice of insurance law and corporate defense litigation. I have been a partner of D&L since 1983. I submit this affidavit (i) in opposition to Plaintiff's Motion for Default against D&L (Motion Seq. No. 0001) and (ii) in support of the Motion to Compel Alternative Dispute Resolution of Defendants D'Amato & Lynch, LLP and Luke D. Lynch, Jr. (Motion Seq. No. 006). Based on my review of the Firm's business records and my personal knowledge, I am familiar with the subject matter of this affidavit.

**Motion for Default Against D&L**

2. At the time this action was commenced, on or about September 20, 2019, the Firm had already advised its insurance carrier about the dispute and submitted a claim in that regard.

3. Several weeks later, the Firm was informed, to my surprise, that the carrier was denying coverage, even as to a defense. The Firm believes that position is in error.

4. Nonetheless, the Firm was left without counsel and in a difficult position to determine how to proceed.

5. The Firm eventually determined to have my counsel, Tarter Krinsky & Drogin LLP, defend the Firm in the litigation, along with myself. Other individual Defendants, including former partners and the Firm's comptroller, have engaged their own counsel.

6. As the Firm was deciding a path forward, Plaintiff apparently filed the Motion for Default, one day after a response to the complaint would have been technically due under one possible calculation of service of process.

7. On the Firm's behalf, counsel sought to reach agreement with counsel for Plaintiff to withdraw the Motion for Default and set a schedule for the Firm to respond to the complaint, but no agreement was reached.

**Motion to Compel Alternative Dispute Resolution**

8. I attach hereto the following documents relevant to the Motion to Compel Alternative Dispute Resolution:

- a. Exhibit A is a true and complete copy of the Summons and Verified Complaint;
- b. Exhibit B is a true copy of the August 2017 Engagement Agreement (without the exhibits thereto) that contains the Dispute Resolution

- c. clause (Section VII.F) that is the basis of the Motion to Compel Alternative Dispute Resolution; and
- d. Exhibit C is an excerpt from the American Arbitration Association's Commercial Arbitration Rules and Mediation Procedures, as amended and effective October 1, 2013, which are available on the American Arbitration Association's website, <https://www.adr.org>.

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LUKE D. LYNCH, JR.

Sworn to before me this  
\_\_\_\_\_ day of November 2019.

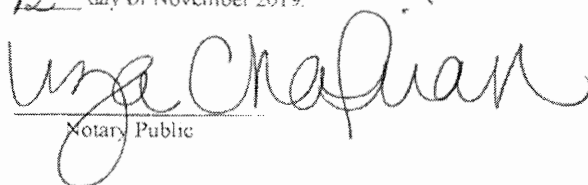
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Notary Public

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LUKE D. LYNCH, JR.

Sworn to before me this  
12 day of November 2019.

  
Notary Public

**LIZA A. CHAFIAN**  
Notary Public, State of New York  
No. 02CH4983624  
Qualified in Nassau County  
Commission Expires Aug. 27, 2021